

AMENDED IN SENATE JUNE 14, 2005

AMENDED IN ASSEMBLY MAY 9, 2005

AMENDED IN ASSEMBLY APRIL 28, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

**No. 1116**

**Introduced by Assembly Member Yee**  
**(~~Coauthor: Assembly Member Koretz~~ Coauthors: Assembly**  
**Members Chu and Koretz)**

February 22, 2005

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An act to amend Sections 4935 and 4938 of the Business and Professions Code, relating to acupuncture.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1116, as amended, Yee. Acupuncture.

The Acupuncture Licensure Act provides for the licensure and regulation of acupuncturists by the Acupuncture Board. The act makes the unlicensed practice of acupuncture, as defined, unlawful except as otherwise specified, and sets forth requirements for licensure, including education and training requirements.

This bill would additionally require an applicant for licensure to complete a postgraduate ~~residency~~ *internship* under the supervision of a licensed acupuncturist and pursuant to regulations to be adopted by the board.

*This bill would incorporate additional changes in Section 4935 of the Business and Professions Code, to become operative only if AB 1117 and this bill are both chaptered and become effective on or before January 1, 2006, and this bill is chaptered last.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 4935 of the Business and Professions  
2     Code is amended to read:  
3     4935. (a) (1) It is a misdemeanor, punishable by a fine of not  
4     less than one hundred dollars (\$100) and not more than two  
5     thousand five hundred dollars (\$2,500), or by imprisonment in a  
6     county jail not exceeding one year, or by both that fine and  
7     imprisonment, for any person who does not hold a current and  
8     valid license to practice acupuncture under this chapter or to hold  
9     himself or herself out as practicing or engaging in the practice of  
10    acupuncture.  
11    (2) It is a misdemeanor, punishable by a fine of not less than  
12    one hundred dollars (\$100) and not more than two thousand five  
13    hundred dollars (\$2,500), or by imprisonment in a county jail not  
14    exceeding one year, or by both that fine and imprisonment, for  
15    any person to fraudulently buy, sell, or obtain a license to  
16    practice acupuncture, or to violate the provisions of this chapter.  
17    (b) Notwithstanding any other provision of law, any person,  
18    other than a physician and surgeon, a dentist, or a podiatrist, who  
19    is not licensed under this article but is licensed under Division 2  
20    (commencing with Section 500), who practices acupuncture  
21    involving the application of a needle to the human body,  
22    performs any acupuncture technique or method involving the  
23    application of a needle to the human body, or directs, manages,  
24    or supervises another person in performing acupuncture  
25    involving the application of a needle to the human body is guilty  
26    of a misdemeanor.  
27    (c) A person holds himself or herself out as engaging in the  
28    practice of acupuncture by the use of any title or description of  
29    services incorporating the words “acupuncture,” “acupuncturist,”  
30    “certified acupuncturist,” “licensed acupuncturist,” “oriental  
31    medicine,” or any combination of those words, phrases, or  
32    abbreviations of those words or phrases, or by representing that  
33    he or she is trained, experienced, or an expert in the field of  
34    acupuncture, oriental medicine, or Chinese medicine.

(d) Subdivision (a) shall not prohibit a person from administering acupuncture treatment as part of his or her educational training if he or she meets one of the following requirements:

(1) Is engaged in a course or tutorial program in acupuncture, as provided in this chapter.

(2) Is a graduate of a school of acupuncture approved by the board and participating in either of the following:

(A) A postgraduate review course that does not exceed one year in duration at a school approved by the board.

(B) A postgraduate ~~residency~~ *internship* pursuant to subdivision (f) of Section 4938.

*SEC. 1.5. Section 4935 of the Business and Professions Code is amended to read:*

4935. (a) (1) It is a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100) and not more than two thousand five hundred dollars (\$2,500), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, for any person who does not hold a current and valid license to practice acupuncture under this chapter or to hold himself or herself out as practicing or engaging in the practice of acupuncture.

(2) It is a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100) and not more than two thousand five hundred dollars (\$2,500), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, for any person to fraudulently buy, sell, or obtain a license to practice acupuncture, or to violate the provisions of this chapter.

(b) Notwithstanding any other provision of law, any person, other than a physician and surgeon, a dentist, or a podiatrist, who is not licensed under this article but is licensed under Division 2 (commencing with Section 500), who practices acupuncture involving the application of a needle to the human body, performs any acupuncture technique or method involving the application of a needle to the human body, or directs, manages, or supervises another person in performing acupuncture involving the application of a needle to the human body is guilty of a misdemeanor.

(c) A person holds himself or herself out as engaging in the practice of acupuncture by the use of any title or description of

1 services incorporating the words “acupuncture,” “acupuncturist,”  
2 “certified acupuncturist,” “licensed acupuncturist,” “*Asian*  
3 *medicine*,” “oriental medicine,” or any combination of those  
4 words, phrases, or abbreviations of those words or phrases, or by  
5 representing that he or she is trained, experienced, or an expert in  
6 the field of acupuncture, ~~oriental~~ *Asian* medicine, or Chinese  
7 medicine.

8 (d) Subdivision (a) shall not prohibit a person from  
9 administering acupuncture treatment as part of his or her  
10 educational training if he or she *meets one of the following*  
11 *requirements*:

12 (1) Is engaged in a course or tutorial program in acupuncture,  
13 as provided in this chapter; ~~or~~.

14 (2) Is a graduate of a school of acupuncture approved by the  
15 board and participating in a ~~postgraduate~~ *either of the following*:

16 (A) A *postgraduate* review course that does not exceed one  
17 year in duration at a school approved by the board.

18 (B) A *postgraduate* internship pursuant to subdivision (f) of  
19 Section 4938.

20 SEC. 2. Section 4938 of the Business and Professions Code is  
21 amended to read:

22 4938. The board shall issue a license to practice acupuncture  
23 to any person who makes an application and meets the following  
24 requirements:

25 (a) Is at least 18 years of age.

26 (b) Furnishes satisfactory evidence of completion of one of the  
27 following:

28 (1) An educational and training program approved by the  
29 board pursuant to Section 4939.

30 (2) Satisfactory completion of a tutorial program in the  
31 practice of an acupuncturist which is approved by the board.

32 (3) In the case of an applicant who has completed education  
33 and training outside the United States and Canada, documented  
34 educational training and clinical experience which meets the  
35 standards established pursuant to Sections 4939 and 4941.

36 (c) Passes a written examination administered by the board  
37 that tests the applicant’s ability, competency, and knowledge in  
38 the practice of an acupuncturist. The written examination shall be  
39 developed by the Office of Examination Resources of the  
40 Department of Consumer Affairs.

1 (d) Is not subject to denial pursuant to Division 1.5  
2 (commencing with Section 475).

3 (e) Completes a clinical internship training program approved  
4 by the board. The clinical internship training program shall not  
5 exceed nine months in duration and shall be located in a clinic in  
6 this state, which is approved by the board pursuant to Section  
7 4939. The length of the clinical internship shall depend upon the  
8 grades received in the examination and the clinical training  
9 already satisfactorily completed by the individual prior to taking  
10 the examination. On and after January 1, 1987, individuals with  
11 800 or more hours of documented clinical training shall be  
12 deemed to have met this requirement. The purpose of the clinical  
13 internship training program shall be to assure a minimum level of  
14 clinical competence.

15 (f) Completes a postgraduate~~-residency~~ *internship* requirement  
16 comprised of a minimum number of hours, as set forth in  
17 regulations adopted by the board, of practice under the  
18 supervision of a licensed acupuncturist. For purposes of this  
19 section, "supervision" means that a licensed acupuncturist is  
20 physically present in the treatment facility during the  
21 performance of those procedures. Notwithstanding paragraph (3)  
22 of subdivision (e) of Section 313.1, the regulations adopted by  
23 the board to implement the postgraduate~~-residency~~ *internship*  
24 program required by this subdivision must be approved by the  
25 Director of the Department of Consumer Affairs before taking  
26 effect. The postgraduate~~-residency~~ *internship* requirement in this  
27 subdivision shall only apply to a person entering a school or  
28 college approved by the board offering a training program related  
29 to the study and practice of acupuncture and oriental medicine,  
30 one year after the effective date of the regulations.

31 (g) An applicant who qualifies for a license shall pay, as a  
32 condition precedent to its issuance and in addition to other fees  
33 required, the initial licensure fee.

34 *SEC. 3. Section 1.5 of this bill incorporates amendments to*  
35 *Section 4935 of the Business and Professions Code proposed by*  
36 *this bill and AB 1117. It shall only become operative if (1) both*  
37 *bills are enacted and become effective on or before January 1,*  
38 *2006, (2) each bill amends Section 4935 of the Business and*

- 1 *Professions Code, and (3) this bill is enacted after AB 1117, in*
- 2 *which case Section 1 of this bill shall not become operative.*

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